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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/258,217 02/26/99 KEATING

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EXAMINER

CHEN, S

ART UNIT

PAPER NUMBER

1633

DATE MAILED:

11/17/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/258,217

Applicant(s)
Zhou et al.

Examiner
Shin-Lin Chen

Group Art Unit
1633



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-14 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-14 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6, 9 and 10, drawn to mouse or cell comprising functional or nonfunctional elastin gene, method of using said mouse or cell to screen drug, classified in class 514, subclass 44.
 - II. Claims 7 and 8, drawn to method of preventing or inhibiting atherosclerosis, SVAS etc. by using elastase inhibitor, classified in class 514, subclass 1.
 - III. Claims 11 and 12, drawn to method of using mouse or cell to screen for peptide candidate for treating atherosclerosis, SVAS etc., classified in class 514, subclass 2.
 - IV. Claims 13 and 14, drawn to a stent coated with unidentified peptide which inhibits vascular smooth muscle cell proliferation or migration, and method of use, classified in class 514, subclass 44.
2. The inventions are distinct, each from the other because of the following reasons:

Groups I and III are distinct from each other because the chemical structure, physical properties and utilities of a drug could be very different from a peptide candidate. Method of using mouse or cell to screen drug method of using mouse or cell to screen peptide candidate require different starting materials. Thus, I and III are not obvious variants and require separate search.

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Group II is distinct from I and III because they are drawn to different methods: method of treating patient to prevent or inhibit atherosclerosis by using elastase inhibitor, SVAS or hypertension, and a method of using mouse or cell to screen drugs or peptide candidate. These methods require different starting materials to reach different ends, and thus they are not obvious variants and require separate search.

Group IV is distinct from I-III because IV requires a stent coated with unidentified peptide to inhibit vascular smooth muscle cell proliferation or migration. The unidentified peptide could be very different from the drug or peptide candidate and they are not obvious variants. Thus, they require separate search.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter and as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CAR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CAR 1.48(b) and by the fee required under 37 CAR 1.17(I).

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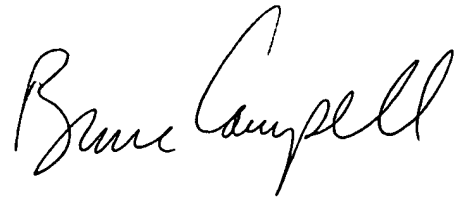
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shin-Lin Chen whose telephone number is (703) 305-1678. The examiner can normally be reached on Monday to Friday from 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jasmine Chambers can be reached on (703) 308-2035. The fax phone number for this group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-0196.



Shin-Lin Chen, Ph.D.



BRUCE R. CAMPELL
PRIMARY EXAMINER
GROUP 1800